IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 466 OF 2005

Smt. Jyoti Suresh Desai .. Appellant

Vs.

1. State of Maharashtra and anr. .. Respondents

Mr. S.K. Dubey for appellant.
Ms. G.P. Mulekar, AGP for Respondent No.1.
Mr. R.M. Sawant for Respondent No.2.

**CORAM: B.H. MARLAPALLE, J.**

**Date : July 05, 2005.**

**P.C.:**

1. Heard the learned counsel for the respective parties.

2. This appeal arises from the order dated 4/4/2005 passed by the learned Judge of the City Civil Court at Mumbai rejecting the prayer for ad-interim relief in terms of prayer clause (a) of the draft Notice of Motion which has been directed to be registered. The said prayer clause (a) reads as under:-

(a) That pending the hearing and final disposal of the suit, the Defendants, their servants, agents and/or person or persons claiming through or under them, be restrained by an Order and Injunction of this Hon'ble Court, from demolishing the suit premises admeasuring about 19' x 9' i.e. 171 sq.ft. or thereabout, under Census No.26-1/1C, made up of B.M. Wall and A.C. Sheet roof thereon, situate at D.D. Land, Shanta Jog Marg, New Tilak Nagar, Chembur, Mumbai - 400 089 and/or dispossessing the Plaintiff from thereon, except than by due process of law.

3. By order dated 8/4/2005 the parties were directed to maintain status quo as on that date and this order of status quo continues till today.

4. The learned counsel for the plaintiff states that the Notice of Motion is coming up before the trial court towards the end of this month and the defendants have not yet filed their reply/WS. Under these circumstances it would be expedient that the defendants are directed to file their reply/WS on or before the next date before the trial court and the Notice of Motion is heard on its own merits within a

fixed period, by continuing the order of status quo till then.

5. It is, therefore, directed that in case the defendants have not filed their reply/WS before the trial court as yet, the same shall be filed on or before the next date in the trial court and the Notice of Motion filed in S.C. Suit under stamp No.1434 of 2005 shall be heard and decided on its own merits as expeditiously as possible and in any case before 30/9/2005. The parties have given a solemn assurance that unwarranted adjournment will not be sought before the trial court and they shall co-operate in disposing off the Notice of Motion within the stipulated period.

6. The appeal is disposed off in terms of the above directions and the status quo order shall continue till the Notice of Motion is decided or till 30/9/2005 whichever is earlier.

**(B.H. Marlapalle,J.)**